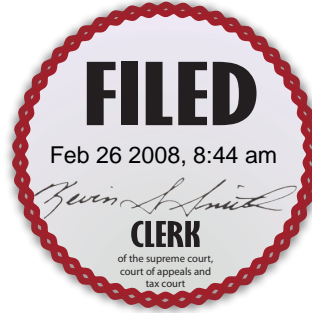


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

CHARLES WALKER,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0708-CR-734

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Louis Rosenberg, Judge Pro Tempore
Cause No. 49F10-0703-CM-39235

February 26, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Following a bench trial, Appellant-Defendant Charles Walker was convicted of Operating a Vehicle While Intoxicated as a Class A misdemeanor¹ and Public Intoxication as a Class B misdemeanor.² Upon appeal, Walker challenges the sufficiency of the evidence to support his conviction for operating a vehicle while intoxicated. We affirm.

FACTS AND PROCEDURAL HISTORY

In the light most favorable to the State, the record reveals that sometime around 12:00 to 1:00 a.m. on March 8, 2007, Indianapolis Metropolitan Police Officer William Crays was dispatched to the semi-truck parking lot of the Pilot Travel Center located at 4607 South Harding Street in Indianapolis. Upon arriving, Officer Crays observed that two semi-trucks had been involved in a collision. Walker was present at the scene and identified himself as the driver of the truck which had caused the collision. Another person at the scene had reportedly been in the sleeper bed of the truck that had been hit. Officer Crays observed that Walker smelled of alcohol, he had slurred speech, his eyes were red and bloodshot, and he had poor manual dexterity. Officer Crays administered field sobriety tests, specifically a one-leg-stand test and a non-standardized finger-count test, both of which Walker failed. Officer Crays administered a portable breath test, after which he advised Walker twice regarding Indiana implied consent law. Walker refused to submit to a chemical test.

¹ Ind. Code § 9-30-5-2 (2006).

² Ind. Code § 7.1-5-1-3 (2006).

At some point, Walker indicated that he was diabetic. Medics who arrived at the scene gave Walker a glucose solution. Officer Crays did not observe Walker's behavior change significantly after he received this solution.

Walker was charged on March 8, 2007, with operating a vehicle while intoxicated, resisting law enforcement, and public intoxication. Following a July 24, 2007 bench trial, he was convicted of operating while intoxicated and public intoxication. The trial court sentenced Walker to an aggregate one-year sentence suspended to probation. This appeal follows.

DISCUSSION AND DECISION

Walker's sole challenge on appeal is to the sufficiency of the evidence to support his conviction for operating while intoxicated. Our standard of review for sufficiency-of-the-evidence claims is well settled. We do not reweigh the evidence or judge the credibility of the witnesses. *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003), *trans. denied*. We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Id.* We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt. *Id.* It is the function of the trier of fact to resolve conflicts of testimony and to determine the weight of the evidence and the credibility of the witnesses. *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998).

To convict Walker, the State had to prove that he operated a motor vehicle while intoxicated in a manner that endangered a person. *See* Ind. Code § 9-30-5-2(b). Walker

challenges his conviction by claiming there was inadequate evidence to demonstrate he drove the truck involved in the accident or that he was intoxicated. With respect to Walker's claim of inadequate evidence to show he drove the truck, we observe from the record that Walker admitted to Officer Crays that he was driving the truck causing the accident. In convicting Walker, the trial court found this testimony to be credible. We will not reassess the court's credibility determination on that point.

As to Walker's challenge to the evidence establishing he was intoxicated, we observe that "intoxicated" is defined as "under the influence of: (1) alcohol . . . so that there is an impaired condition of thought and action and the loss of normal control of a person's faculties." *See* Ind. Code § 9-13-2-86 (2006). Intoxication may be established through evidence of consumption of significant amounts of alcohol, impaired attention and reflexes, watery or bloodshot eyes, an odor of alcohol on the breath, unsteady balance, failed field sobriety tests and slurred speech. *Mann v. State*, 754 N.E.2d 544, 547 (Ind. Ct. App. 2001), *trans. denied*. Here, Walker caused a vehicle accident, he had slurred speech, poor manual dexterity, and smelled of alcohol, he failed field sobriety tests, and he had bloodshot eyes. This evidence is sufficient to support a finding of intoxication. *See Mabbitt v. State*, 703 N.E.2d 698, 701 (Ind. Ct. App. 1998) (concluding evidence of poor driving skills, failed field sobriety tests, difficulty with physical dexterity, and/or the smell of alcohol upon a driver was sufficient to sustain conviction for operating vehicle while intoxicated).

The judgment of the trial court is affirmed.

BAKER, C.J., and DARDEN, J., concur.